

## **REMARKS**

### **Telephone Interview Summary**

On October 30, 2008 Applicant's representative participated in a telephone interview with Supervisory Patent Examiner Zeender and Patent Examiner Haider to discuss the present application. Applicant's representative appreciated the opportunity to discuss the present application with the Examiners. Applicant's representative submitted a proposed response in advance of the interview.

The prior art references and claim rejections were discussed. Applicant explained that the Kawamura reference teaches only maintaining a "desired" level of containers but never explains how the "desired" level is calculated. Okamura teaches a number of containers that a company leases for a specified period of time. Okamura does not teach how the number is calculated. Furthermore, the specified period of time is set by the lessor and does not relate in any way to a production schedule as claimed. Finally, Peachy-Kountz, which is alleged to teach a "parts demand value" that relates to parts needed from a supplier to meet production needs, actually teaches that a company determines its own need for parts to satisfy customer orders. Peachy-Kountz does not teach a "parts demand value" that a manufacturer determines for its suppliers. Applicant explained that the prior art references do not provide the teachings asserted in the office actions and that when combined, teach only maintaining container inventories at a predetermined level.

The Examiners indicated that the arguments addressed concerns raised in the office action and that further consideration would be given to the claim amendments to address § 101 and § 112 rejections and the arguments to overcome the § 103 rejections.

Examiner Haider further suggested amending the claims to refer to “calculating” rather than “determining” values. No agreement regarding the claims was reached.

#### **Substitution of Specification under 37 CFR § 1.125**

Applicant is submitting with this response replacement drawings for the informal drawings filed originally. Several informal drawings pages were replaced with multiple replacement drawing pages. The addition of new drawings pages required numerous amendments to the specification. Because the number and nature of the amendments would render it difficult for the Examiner to consider the application, Applicant is submitting a substitute specification rather than an amendment. Applicant is submitting the substitute specification which includes new drawings and text to correct references to the drawing pages. The substitute specification includes no new matter. Enclosed is a marked up version of the substitute specification showing all the changes. Also enclosed is a clean form version of substitute specification without markings as to amended material.

#### **Claim Rejections under 35 USC § 112**

The Examiner has rejected claims 1 and 8 under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner has stated the limitation “suitable for use” is ambiguous and not clearly defined. Applicant has amended claims 1 and 8 to remove the term “suitable.” Applicant respectfully submits the claims as amended overcome the Examiner’s rejections.

### **Claim Rejections under 35 USC § 101**

Claims 1 and 3-7 are rejected under 35 USC § 101 based on Supreme Court precedent and recent Federal Circuit decisions because the process is not tied to another statutory class such as a particular apparatus or transform underlying subject matter to a different state or thing. Applicant has amended claims 1 and 3-7 to indicate the claimed process is operable on a computer where data regarding container allocation is stored and calculations related to allocation of containers are performed. Applicant respectfully submits claims 1 and 3-7 as amended overcome the Examiner's rejections.

### **Claim Rejections under 35 USC § 103**

The Examiner has rejected claims 1, 3- 8, and 10-14 under 35 USC § 103(a) as being unpatentable over Kawamura (2002/0069141), Beal (6,634,506), Okamura (2002/161,878), and Peachey-Kountz (6,463,345). Applicant respectfully submits that (1) the prior art references do not provide the suggested teachings; and (2) alone or combined, the prior art references teach container quantity threshold values or container quantities determined by the party that will use the containers to ship parts or products. Regardless of which prior art references are considered, the number of returnable containers available for use in shipping supplies from a supplier (or producer) to a manufacturer (or consumer) may far exceed the number needed to support the manufacturer's production. Because the total supply of containers in the network includes many unused containers, costs to the manufacturer and/or supplier are increased. The claimed invention minimizes the supply of unused containers

because containers are allocated to suppliers that ship parts according to a manufacturer's production needs. A more efficient allocation and use of containers reduces the cost of maintaining a container network.

The following table summarizes the prior art teachings and differences between the prior art and claimed invention.

Reference	Teaching	Meaning	Differences in Claimed Invention
Kawamura [0012]	... calculating a returnable container inventory balance ..."	"Inventory balance" means there is a certain number of containers in an inventory.	Merchandise is product manufacturer; manufacturer is supplier.
Kawamura [0017]	... calculating a returnable container inventory balance from a <b>desired number of stock</b> ... (Emphasis added)  ... urge the merchandiser to return the returnable-containers if the stock of the returnable containers is below a <b>predetermined level</b> ... (Emphasis added)	A "desired number of stock" is the number to be maintained in inventory. The "balance" is the number actually in the inventory. The number of containers should not drop below a "predetermined level."	Kawamura teaches that each supplier should have a "predetermined level" or "desired level" of containers. Kawamura does not teach how the level is determined. Maintaining a "predetermined or desire level," regardless of the production need, teaches away from the claimed invention. Kawamura also does not teach or suggest that the desired level can vary over a period of time. Maintaining an inventory of containers at a "desired" level results in storage of unused containers.
Kawamura [0020]	... The returnable containers are sent to the manufacturer by the merchandiser based on the merchandiser receiving the returnable container-returning notice so that the actual inventory at the manufacturer's side may be at a <b>desired level</b> .	Containers are returned to a manufacturer if a balance drops below a threshold level and the inventory at the manufacturer is replenished.	
Okamura Figs. 10-13		Show what information is contained in an IC card for a container. Containers are leased as shown in Figure 10.	Okamura teachings regarding a "period of use" for lease means only that the lessor may have the container in its possession for a specified period of time. The period of time has nothing to do with a production schedule. There is
Okamura [0042]	First, when a producer inputs order information with the terminal 2 to place an	Okamura teaches a "period of use" which represents a period of time that the containers will be in the supplier's possession	

	order for returnable containers 10 to the management center 20 through the internet 1 (step S1), the management center 20 accepts the order for returnable containers by checking the client, quantity, the type of the returnable containers and scheduled date of distribution based on the order and by determining the order number, distribution center (returnable container delivery center), and so on (step S2).	or otherwise in the supplier's control.	also no indication that the period of time relates to "an on-hand inventory to meet a manufacturer's demand for parts over a specified period of time" or a "container allocated days number determined by a manufacturer." These limitations cannot be read into a "period of use" for the time a container is in a supplier's control.
Okamura [0043]	The order information comprises the quantity, the period of use and the type of returnable containers.		
Peachy-Kountz [Col. 1, ll. 21-28]	Further, most current tools use calculator like logic to predict part availability for each individual time period. Typically, part availability is determined by subtracting Demand and Reservations from Total Supply. However, the total available supply either must be known or, projected supply must be entered, manually. Unfortunately, this data is not available, typically, and so, the above availability check yields a zero result. Thus, due to lack of data, these simple tools cannot give a projected delivery date.	Peachy-Kountz teaches predicting part availability in order to meet demand for products. The system is for use by manufacturers to respond to customer orders. ("... a system that upon a customer request, provides a date when material can be supplied and quantity that can be supplied on that date. Col. 3, ll. 42-44)	Peachy-Kountz teachings regarding systems for determining whether a manufacturer can meet demand for its products is not relevant to the claimed invention. The pending claim language indicates clearly that the "parts demand value" is determined by the manufacturer according to its production schedule and that the value is used in determining the number of containers that a supplier needs to provide parts to the manufacturer to meet its production schedule. Peachy-Kountz does not teach a "parts demand value for each of said plurality of suppliers wherein said value for each supplier is based on said manufacturer's actual requirement for parts from said supplier according to said manufacturer's production schedule."

Kawamura teaches setting a “predetermined or desired” quantity of containers. Okamura teaches a manufacturer ordering a specified number of containers to use over a “period of use.” In both cases, the number of containers is fixed. More importantly, neither reference explains how the number is determined. Further, neither reference suggests that the party receiving products from the suppliers determines the allocation of containers to the suppliers. The references, alone or in combination, fail to teach at least the following elements of the claimed invention:

- (1) calculating a container allocated days number for each of said plurality of suppliers, said container allocated days number for each supplier comprising a number of days a container remains in said supplier's on-hand container inventory to meet said manufacturer's demand for parts over a specified period of time, said container allocated days number calculated by said manufacturer;
- (2) calculating a parts demand value for each of said plurality of suppliers, said parts demand value for each supplier based on said manufacturer's actual requirement for parts from said supplier according to said manufacturer's production schedule, said parts demand value calculated by said manufacturer;
- (3) calculating by said manufacturer a container allocation quantity for each of said plurality of suppliers, wherein said container allocation quantity for each supplier varies for each supplier according to said supplier's parts demand value as determined by said manufacturer's production schedule and said supplier's container allocated days number;

Peachy-Kountz adds nothing to the Kawamura or Okamura references. It does not teach a calculating a “parts demand value” as claimed or use of a “parts demand

value" as indicated in the claims. Even if it did, it is not clear how the teaching could be combined with prior art references that teach using fixed values in maintaining inventories of containers. Applicant further respectfully submits that Beal does not correct the deficiencies in the other prior art references and therefore, the combination does not render the claimed invention obvious.

### **Conclusion**

Applicant respectfully submits that the prior art references do not provide the assert teachings and therefore, cannot not be combined to reject the claims. The claimed invention is directed to minimizing a container inventory by efficiently allocating them according to production needs. It is not directed to maintaining container inventories at predetermined levels as taught by the prior art. Applicant respectfully submits the present application is in condition for allowance.

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